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HOUSE BILL 330

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Brian K. Moore

AN ACT

RELATING TO WATER; GRANTING AUTHORITY TO THE INTERSTATE STREAM  
COMMISSION TO DEVELOP AND CONSTRUCT INFRASTRUCTURE RELATED TO  
THE STRATEGIC WATER RESERVE; EXEMPTING LEASES FROM THE  
STRATEGIC WATER RESERVE FROM PROVISIONS REQUIRING STATE BOARD  
OF FINANCE OR LEGISLATIVE APPROVAL; RECONCILING MULTIPLE  
AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-6-2.1 NMSA 1978 (being Laws 1989,  
Chapter 380, Section 1, as amended by Laws 2003, Chapter 142,  
Section 3 and by Laws 2003, Chapter 349, Section 22) is amended  
to read:

"13-6-2.1. SALES, TRADES OR LEASES--BOARD OF FINANCE  
APPROVAL.--

A. Except as provided in Section 13-6-3 NMSA 1978,

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1 for state agencies, any sale, trade or lease for a period of  
2 more than five years of real property belonging to a state  
3 agency, local public body or school district or any sale, trade  
4 or lease of such real property for a consideration of more than  
5 twenty-five thousand dollars (\$25,000) shall not be valid  
6 unless it is approved prior to its effective date by the state  
7 board of finance.

8 B. The provisions of this section shall not be  
9 applicable as to those institutions specifically enumerated in  
10 Article 12, Section 11 of the constitution of New Mexico, the  
11 state land office, the state transportation commission [~~or~~],  
12 the economic development department when disposing of property  
13 acquired pursuant to the Statewide Economic Development Finance  
14 Act or the interstate stream commission when leasing water or  
15 water rights from the strategic water reserve."

16 Section 2. Section 13-6-3 NMSA 1978 (being Laws 1961,  
17 Chapter 41, Section 1, as amended by Laws 2003, Chapter 142,  
18 Section 4 and by Laws 2003, Chapter 349, Section 23) is amended  
19 to read:

20 "13-6-3. SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE  
21 AGENCIES--APPROVAL OF LEGISLATURE--EXCEPTIONS.--

22 A. Any sale, trade or lease for a period exceeding  
23 twenty-five years in duration of real property belonging to any  
24 state agency, which sale, trade or lease shall be for a  
25 consideration of one hundred thousand dollars (\$100,000) or

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1 more, shall be subject to the ratification and approval of the  
2 state legislature prior to the sale, trade or lease becoming  
3 effective. The provision specified in Section 13-6-2 NMSA 1978  
4 requiring approval of the state budget division of the  
5 department of finance and administration as a prerequisite to  
6 consummating such sales or dispositions of realty shall not be  
7 applicable in instances wherein the consideration for the sale,  
8 trade or lease shall be for a consideration of one hundred  
9 thousand dollars (\$100,000) or more and wherein a state agency  
10 not specifically excepted by Subsection B of this section is a  
11 contracting party, and, in every such instance, the legislature  
12 shall specify its approval prior to the sale, trade or lease  
13 becoming effective.

14 B. The provisions of this section shall not be  
15 applicable as to those institutions specifically enumerated in  
16 Article 12, Section 11 of the constitution of New Mexico, the  
17 state land office, the state transportation commission [~~or~~],  
18 the economic development department when disposing of property  
19 acquired pursuant to the Statewide Economic Development Finance  
20 Act or the interstate stream commission when leasing water or  
21 water rights from the strategic water reserve."

22 Section 3. Section 72-14-3.3 NMSA 1978 (being Laws 2005,  
23 Chapter 175, Section 1 and Laws 2005, Chapter 182, Section 1)  
24 is amended to read:

25 "72-14-3.3. INTERSTATE STREAM COMMISSION--ADDITIONAL  
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1 POWERS--STRATEGIC WATER RESERVE.--

2 A. The interstate stream commission shall establish  
3 a strategic water reserve and may purchase or lease from  
4 willing sellers or lessors or receive through donation surface  
5 water or water rights or storage rights to compose the reserve.  
6 The commission may also purchase or lease from willing sellers  
7 or lessors or receive by donation underground water or water  
8 rights for the strategic water reserve for cessation of pumping  
9 or limited short-term stream augmentation. At no time shall  
10 the use of water or water rights held by the strategic water  
11 reserve result in an increase in net depletions in any basin.  
12 The commission shall pay no more than the appraised market  
13 value to purchase or lease water or water rights and storage  
14 rights for the strategic water reserve. The commission may  
15 accept money or grants from federal or other governmental  
16 entities or other persons to purchase or lease water or water  
17 rights for the strategic water reserve [~~and~~], to pay  
18 administrative costs and to develop and construct related  
19 infrastructure. The commission shall not acquire water or  
20 water rights that are served by or owned by an acequia or  
21 community ditch established pursuant to Chapter 73, Articles 2  
22 and 3 NMSA 1978 for inclusion in the strategic water reserve.  
23 The commission shall not acquire water or water rights that are  
24 served by an irrigation district established pursuant to  
25 Chapter 73, Article 10 NMSA 1978, except through contractual

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1 arrangement with the district board of directors or as a  
2 special water users association established pursuant to Chapter  
3 73, Article 10 NMSA 1978, but nothing in this section shall be  
4 construed to authorize the interstate stream commission to  
5 acquire water rights contrary to Section 72-1-2.4 NMSA 1978.

6 The commission shall acquire only water rights that have  
7 sufficient seniority and consistent, historic beneficial use to  
8 effectively contribute to the purpose of the strategic water  
9 reserve. The commission shall not acquire water or water  
10 rights for the strategic water reserve by condemnation. Water  
11 in the strategic water reserve shall not be subject to  
12 forfeiture pursuant to Chapter 72 NMSA 1978. Water or water  
13 rights shall only be acquired with the explicit approval of the  
14 commission.

15 B. Water and water rights in the strategic water  
16 reserve shall be used to:

17 (1) assist the state in complying with  
18 interstate stream compacts and court decrees; or

19 (2) assist the state and water users in water  
20 management efforts for the benefit of threatened or endangered  
21 species or in a program intended to avoid additional listings  
22 of species. Management of water pursuant to this subsection  
23 shall be done in conjunction with collaborative programs or  
24 processes where they exist. Use of the strategic water reserve  
25 pursuant to this paragraph shall be limited to aquatic or

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1 obligate riparian species.

2 C. The interstate stream commission shall develop  
3 river reach or ground water basin priorities for the  
4 acquisition of water or water rights and storage rights for the  
5 strategic water reserve in consultation with the New Mexico  
6 interstate stream compact commissioners, the office of the  
7 state engineer and the attorney general's office. For each  
8 river reach or ground water basin, additional prioritization  
9 shall be developed in coordination with the governing bodies of  
10 the following organizations within the affected river reach or  
11 ground water basin:

- 12 (1) Indian nations, tribes and pueblos;
- 13 (2) boards of county commissioners;
- 14 (3) municipalities;
- 15 (4) special districts established pursuant to  
16 Chapter 73 NMSA 1978;
- 17 (5) soil and water conservation districts;
- 18 (6) water authorities; and
- 19 (7) water planning regions.

20 D. Nothing in this section shall modify or repeal  
21 any authority currently vested in any organization described in  
22 [~~this subsection~~] Subsection C of this section.

23 ~~[D.]~~ E. The interstate stream commission may sell  
24 or lease water or water rights from the strategic water reserve  
25 at no less than the appraised market value. The commission may

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1 sell water rights only if the rights are no longer necessary  
2 for the purposes for which they were acquired for the reserve;  
3 provided that water rights in the reserve shall not be sold to  
4 the United States. Pursuant to a sale of water rights from the  
5 strategic water reserve by the interstate stream commission,  
6 the commission shall first make the offer of sale for the  
7 original purpose of use. Proceeds of any sale are appropriated  
8 to the office of the state engineer to adjudicate water rights.  
9 Proceeds of any leases are appropriated to the interstate  
10 stream commission for carrying out the purposes of the  
11 strategic water reserve.

12 [~~E.~~] F. Water or water rights acquired for the  
13 strategic water reserve or water or water rights sold or leased  
14 from the reserve shall remain in their river reach or ground  
15 water basin of origin.

16 [~~F.~~] G. Transactions with members of an irrigation  
17 or conservancy district established pursuant to Chapter 73 NMSA  
18 1978 shall provide for the strategic water reserve to pay the  
19 annual assessment to the district that would accrue to the  
20 district absent the transaction.

21 [~~G.~~] H. Cumulative impacts of the strategic water  
22 reserve acquisitions and uses shall not adversely affect  
23 existing water users or delivery systems.

24 [~~H.~~] I. The interstate stream commission shall  
25 adopt rules consistent with the terms of this section,

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1 including rules to ensure:

2 (1) that water and water rights acquired for  
3 the strategic water reserve are used only for the purposes of  
4 the reserve;

5 (2) adequate public notice in each affected  
6 area for the acquisition or disposal of water rights; and

7 (3) that the office of the state engineer  
8 transfer procedures shall be followed.

9 ~~[F.]~~ J. The interstate stream commission shall  
10 annually report to the appropriate committee of the legislature  
11 on the status of the strategic water reserve."

12 Section 4. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2007.

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